

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4431 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

DINKERRAI POPATLAL OZA

Versus

DENA BANK

Appearance:

MR AM RAVAL for Petitioner
MR PRANAV G DESAI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/10/1999

ORAL JUDGEMENT

#. Having heard the learned counsel for the parties and going through the orders passed by the disciplinary authority and reviewing authority, I am satisfied that the authorities have not concentrated on the real points which were involved in this matter. It is true that the

inquiry report given by the inquiry officer is not binding on disciplinary authority and whatever suggestions given by the inquiry officer for consideration while imposing penalty on a delinquent officer may not also be binding, but after going through the contents of paragraph-21 of the report, *prima-facie* I am satisfied that it seems to be a very hard case where an honest officer appears to have been punished. The inquiry officer has given more than five grounds to take lenient view in the matter and if we go by these grounds which have been given on the basis of appreciation of evidence come on record it may not be a case where the petitioner may be punished for this alleged misconduct. There is a categoric finding of the inquiry officer also that there was no malafide intention on the part of the petitioner. Three other officers who were equally connected with these alleged transactions have been exonerated. Disciplinary authority has not passed any speaking order and that is the case with the appellate authority and reviewing authority and their orders also cannot be said to be truly speaking, the speaking orders.

#. Taking into consideration the totality of the facts of this case, I consider it to be appropriate that the disciplinary authority may consider the matter afresh keeping in view the observations of this Court as well as the observations made by inquiry officer in paragraph-27 of the inquiry report. In case still the disciplinary authority considers that whatever decision given by it earlier is to be affirmed, then a reasoned order may be passed, and a copy of the same be sent to the petitioner by registered post A.D. This exercise has to be undertaken and completed within a period of two months from the date of receipt of writ of this order. Liberty is granted to the petitioner for revival of this special civil application in case of difficulty. The special civil application and Rule stand disposed of accordingly with no order as to costs.

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[sunil]